

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



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Application of Southern California Gas
Company (U 904 G) for Authority to Establish a
Memorandum Account for the Angeles Link
Project.

Application 22-02-007
(Filed February 17, 2022)

**PROTEST OF THE UTILITY REFORM NETWORK TO THE
ANGELES LINK PROJECT MEMORANDUM ACCOUNT**



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**PROTEST OF THE UTILITY REFORM NETWORK TO THE
ANGELES LINK PROJECT MEMORANDUM ACCOUNT**

Pursuant to Rule 2.6 of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (“TURN”) files this protest to the application by the Southern California Gas Company (“SoCalGas”) requesting authority to establish the Angeles Link Project Memorandum Account (“Memo Account” or “ALPMA”).

I. SUMMARY

SoCalGas requests authority to establish a memorandum account to record costs related to preliminary project scoping, design and engineering for the possible construction of a “one or more trunk transmission pipelines that would run from green hydrogen generation sources including, but not limited to, the Central Valley, Mojave Desert/Needles, or Blythe area, into one or more delivery points in the Los Angeles Basin,” so as to carry green hydrogen for consumption by “hard to electrify industries, electric generation and the heavy duty transportation sector.”¹ SoCalGas estimates it would record about \$118 million in Phases 1 and 2 for preliminary engineering and design work and basic feasibility research, and potentially hundreds of millions of dollars more in Phase 3 for more detailed design work and permit preparation.

Application 22-02-007 (“A.22-02-007” or “Application”) was filed on February 17, 2022, and noticed in the daily calendar on February 18, 2022, so that this protest is timely filed on or

¹ A.22-02-007, pp. 2, 22-28.

before March 21, 2022.²

TURN recommends that the Commission dismiss the application with prejudice, as it is inappropriate and/or premature for the utility to record costs for potential recovery from ratepayers for the proposed Phases 1 to 3 work:

- This type of project should be more appropriately conducted by a utility affiliate, consistent with the Commission’s Affiliate Transaction Rules.
- The Application has not met all of the factors necessary for approval of a memorandum account, since the costs of Phase 3 work are entirely unknown, and because this Application could be incorporated in SoCalGas’ 2024 General Rate Case (“GRC”) or in a stand-alone application, once the project costs are better known.
- If SoCalGas believes additional preliminary research is necessary to identify potential green hydrogen supply sources and identify potential users, it should use its existing research, development and demonstration (RD&D) funds, as it has done in the past, to fund such work.

If the Commission does choose to authorize the ALPMA, it must consider several issues and make certain modifications to the proposed memorandum account:

- The Commission should exclude core customers from the account, since only those customers who may eventually benefit from the pipeline should pay all costs, including the initial design and engineering costs.
- The Commission must ensure that any “green hydrogen” is truly beneficial for GHG emissions reductions, and that any pipeline would be dedicated to transporting only

² The 30-day period ends on March 20, so the protest is due March 21 pursuant to Rule 1.15.

“green” hydrogen for its entire service life.

II. GROUNDS FOR PROTEST

A. THE PROPOSED PROJECT IS NOT APPROPRIATE FOR THE REGULATED UTILITY

SoCalGas explains that the Commission has jurisdiction over hydrogen gas pipelines, based on the Commission’s broad interpretation of the term “natural or manufactured gas” as used in Public Utilities Code Section 221 and General Orders 58-A and 58-B.³

TURN does not disagree with SoCalGas that the Commission could exercise jurisdiction over an in-state hydrogen pipeline. However, simply because the Commission can exercise jurisdiction does not at all mean that the Commission needs to or should authorize the regulated utility to conduct the project. The Commission could authorize a third party or a non-regulated utility affiliate to construct the project, with more limited regulatory control. In fact, the Commission expressed exactly this preference, as indicated by the very first sentence of Section VII of the Commission’s Affiliate Transaction Rules:

VII. Utility Products and Services

A. General Rule: Except as provided for in these Rules, new products and services shall be offered through affiliates.⁴

Sempra Energy, SoCalGas’s parent holding company, has the technical, financial and operational expertise to build large pipeline projects through its non-utility affiliates, including

³ Application, pp. 20-21.

⁴ See, D.06-12-092, Appendix A-1, Sec. VII.A. SoCalGas’s green hydrogen pipeline also does not meet the requirements under Subpart C to be offered as a “nontariffed” product or service by the utility.

Sempra Infrastructure and Sempra LNG.⁵ The utility routinely creates new affiliates to conduct non-regulated activities, or to offer new products and services.⁶ The proposed hydrogen pipeline is not just a “new product or service,” but actually a unique project that may be the first of its kind anywhere in the country.⁷ Authorizing memorandum account treatment and potential ratepayer funding for a project with this level of uncertainty, lack of specificity, and unknown need, is a recipe for potential future litigation concerning the allocation of stranded costs for abandoned plant.⁸

B. THE APPLICATION HAS NOT MET ALL OF THE STANDARDS FOR GRANTING MEMORANDUM ACCOUNT TREATMENT

SoCalGas admits that “it is a well-established tenet of the Commission that ratemaking is done on a prospective basis.”⁹ The Commission has adopted forecast ratemaking for utility investments in order to provide a modicum of cost control incentives for monopoly services, in lieu of normal competitive market cost pressures. Because granting memorandum account treatment to

⁵ See, for example, <https://semprainfrastructure.com/>

⁶ See, for example, SoCalGas AL 5904, Nov. 30, 2021 (Sempra Energy Commodities Holdings); AL 5839, July 8, 2021 (Hackberry Carbon Sequestration; Sempra Infrastructure Services); AL 5809, May 17, 2021 (IG Sierra Juarez); AL 5665, July 15, 2020 (Sempra LNG ECA Liquefaction, Vista Pacifico LNG Holdings, Cameron LNG FINCO); etc.

⁷ TURN is not aware of any other stand-alone “green hydrogen” pipelines in the country. A limited number of hydrogen pipeline exist. See, for example, <https://www.energy.gov/eere/fuelcells/hydrogen-pipelines#:~:text=Gaseous%20hydrogen%20can%20be%20transported,operating%20in%20the%20United%20States>.

⁸ See, for example, D.84-09-089 (Allocating spending by PG&E and SoCalGas on an abandoned LNG Terminal between ratepayers and shareholders.). There are multiple examples of abandoned plant, though the LNG terminal, which was never completed because the “need” went away, is a particularly instructive example of the risk due to poorly scoped projects.

⁹ Application, p. 40 and fn. 99.

utility spending outside of the rate case bypasses these cost control features, and results in spending beyond that already authorized in the rate case to cover all utility services, the Commission has emphasized that a memorandum account is warranted only if the expected costs are: (1) incremental to the utilities' general ratemaking case or other ratemaking applications, (2) substantial, and (3) nonspeculative.¹⁰ Additionally, the Commission has emphasized that such costs must have been caused by an event of an exceptional nature outside of the utility's control that could not have been reasonably foreseen in the utility's last rate case.¹¹

SoCalGas asserts that, based on these standards, memorandum account is warranted. SoCalGas explains that 1) the costs will be substantial and are not speculative, and 2) SoCalGas could not have included this project in its 2019 GRC, but also cannot wait until the next 2024 GRC.¹²

SoCalGas further claims that establishing a memorandum account “is in the public interest because it will provide for a high level of transparency and stakeholder engagement throughout the Project development process.”¹³

In this case, while TURN fully agrees that the costs identified by SoCalGas are “substantial,” SoCalGas has failed to demonstrate that at least some portion of the costs are not highly speculative. Even more importantly, SoCalGas fails to explain why it cannot include this

¹⁰ D.21-04-015, pp. 25-27. (citing (erroneously) to D.19-06-026, pp. 8-10).

¹¹ See, D.19-05-020, p. 160 (citing D.02-07-011); see, also, D.12-03-022, p. 12 (identifying four factors usually considered by the Commission in determining whether to authorize a memorandum account).

¹² Application, pp. 38-42.

¹³ Application, p. 3.

project either in its next rate case application, or as a stand-alone forecast ratemaking application filed after cost estimates are better known.

1. SoCalGas Admits That Phase 3 Costs Are Unknown but Would Be “Hundreds of Millions of Dollars”

SoCalGas intends to record costs in the memorandum account for three preliminary phases of the project, identified as follows:

TABLE 1: Description of Costs to be Recorded in Memorandum Account¹⁴

PHASE	PRELIMINARY COST ESTIMATE
1 – Preliminary engineering, design and environmental studies (including refined supply, demand, pipeline configuration and storage analyses)	\$26,000,000
2 – Front-end engineering and design study	\$92,000,000
3 – Development of formal CPCN application and permit applications	Several hundreds of millions of dollars

SoCalGas explains that the costs for Phases 1 and 2 are preliminary, and the costs for Phase 3 will depend on the results of the preliminary scoping and engineering design conducted to identify a preferred option in Phases 1 and 2. It is possible that Phase 1 work could identify significant flaws that would make the project “infeasible.”¹⁵ SoCalGas explains that “a cost estimate for Phase 3 would be developed when the pipeline system length and complexity are more defined. Upon completion of the Phase 3 cost estimate, SoCalGas would provide an update to the Commission.”¹⁶ SoCalGas presently expects that Phase 3 activities “would cost several

¹⁴ Application, pp. 4, 22,

¹⁵ Application, p. 25.

¹⁶ Application, p. 28.

hundreds of millions of dollars.” SoCalGas thus admits that Phase 3 costs are entirely speculative at this stage, though they will likely be quite substantial. Yes SoCalGas proposes that “select activities in Phases 2 and 3 could proceed in parallel,”¹⁷ meaning that SoCalGas could start recording Phase 3 costs prior to the completion of Phase 2.

At a minimum, if the Commission authorizes a memorandum account, which TURN does not support, any such account should be limited to Phases 1 and 2. SoCalGas should come back with an application for Phase 3 work that describes the costs, project risks, and how project failure would be addressed. It is entirely inappropriate and contrary to Commission precedents to allow SoCalGas to record Phase 3 costs in any potential memorandum account.

2. This Project Could be Presented in a Rate Case or a Separate Forecast Ratemaking Application

SoCalGas claims that “it could not have included” this project in its 2019 GRC because “no specific hydrogen energy transport system project was contemplated at that time.”¹⁸ SoCalGas then states that “the pace of climate change and technological innovation has accelerated since the last GRC filing in 2017,” so that apparently now is the time to propose a hydrogen pipeline. SoCalGas also discusses various developments that have happened since 2017, including the launch of HyDeal LA in May 2021 and the announcement of the federal Hydrogen Shot initiative.¹⁹ SoCalGas then claims it cannot wait until its test year 2024 general rate case, which is due to be filed in less than two months, because “waiting could substantially delay the

¹⁷ Application, p. 28.

¹⁸ Application, p. 40.

¹⁹ Application, pp. 18-19, 41.

development of the Project and its climate benefits.”²⁰

As a preliminary matter, TURN notes that SoCalGas fails to justify the urgency of this project. TURN does not at all dispute the urgency of climate change. However, the key policy issues being addressed right now at the CPUC in order to meet California’s GHG emissions reduction goals – including increased renewable energy and battery storage, increased electric vehicle penetration and charging infrastructure, reduction in methane emissions, and potential building electrification – do not depend on the construction of green hydrogen via dedicated pipelines in the near term.

Nevertheless, TURN does not disagree that SoCalGas’s proposal to supply industrial customers, power plants and heavy duty trucks with green hydrogen may eventually play a role in the reduction or elimination of natural gas use in the energy system. But SoCalGas’s concerns regarding delays are exaggerated. The 2024 general rate case, which is due to be filed on May 15, 2022,²¹ will likely be concluded by the end of 2023 or sometime in 2024. If SoCalGas provides a cost forecast for initial project design in its rate case, there could be more substantive consideration and review of the project parameters and needs, resulting in an authorization of costs for project design phases. If SoCalGas is unable to include this project in its rate case, it should file a stand-alone CPCN application once it has done sufficient preliminary engineering design to have better forecasts of project costs.

It may be true that granting a memorandum account right now would allow the initial design to

²⁰ Application, p. 42.

²¹ See, D.20-01-002.

commence earlier. The Commission must balance the benefits of starting project design a bit earlier, versus the risks that the project will not be pursued or implemented successfully, resulting in future litigation concerning the allocation of stranded costs recorded to a memorandum account.²²

C. IF THE COMMISSION CONSIDERS AUTHORIZING A MEMORANDUM ACCOUNT, SEVERAL ISSUES MUST BE ADDRESSED

1. Definition of Green Hydrogen and Commitment to Green Hydrogen

SoCalGas claims that it will transport “green hydrogen” through the potential future pipeline and thus provide “a clean energy alternative.” There are at least two potential issues with SoCalGas’s proposal.

First, there is no common definition of green hydrogen in California’s regulatory regime. SoCalGas cites to a California Energy Commission report for the proposition that green hydrogen “generally refers to hydrogen produced through electrolysis using renewable energy.”²³ However, the California Air Resources has found that many forms hydrogen, including hydrogen from electrolysis, are actually quite dirty. For example, CARB has found that electrolytic hydrogen produced using average California grid electricity is almost 65% more carbon intensive than diesel fuel in the transportation sector.²⁴

Second, on its face the Application does not provide any assurances that the proposed

²² See, *infra*, fn. 7.

²³ Application, p. 2, fn. 2.

²⁴ CARB LCFS Lookup Table Pathways (Table 7-1), available at: <https://ww2.arb.ca.gov/resources/documents/lcfs-life-cycle-analysis-models-and-documentation>

infrastructure would be used to transport clean, rather than dirty, forms of hydrogen. For example, if a pipeline is constructed, and if in the future there is an inadequate supply of “green hydrogen,” there is no assurance that the pipeline will not be used to ship any type of hydrogen, especially if power plants become dependent on the pipeline for their hydrogen fuel supply.²⁵

The very significant concern about the long-term use of the pipeline is yet another reason to deny ratepayer funding for these early design stages. Only after further exploration of supply options could SoCalGas provide any assurances that this pipeline will be used to transport green hydrogen.

2. SoCalGas Could Pursue Preliminary Work Using Research and Development Funds

In explaining why it could not have included this project in prior rate cases, SoCalGas explains that it has funded “research into discrete hydrogen-related technologies and demonstration pilots” using its authorized Research, Development and Demonstration (“RD&D”) program funds.²⁶ SoCalGas notes that such activities do not generally fund “developing a specific new project.” However, it is not at altogether clear why RD&D funds could not be used for some of the activities planned for Phase 1, including tasks such as 1) a “refined assessment of expected green hydrogen demand and identification of initial and subsequent end users in the Los Angeles Basin,” 2) a “refined assessment of potential sources of green hydrogen production to meet the identified demand,” 3) a “preliminary study of hydrogen storage options to facilitate system

²⁵ Generally referring to hydrogen produced from the steam reformation of methane.

²⁶ Application, pp. 41-42.

operability, processing, and reliability,” and 4) preliminary routing analyses.²⁷ SoCalGas should at the same time explore sources of outside funding for future project investment activities.

3. Only Potential Users of the Proposed Hydrogen Pipelines Should Pay Any Recorded Costs

SoCalGas repeatedly explains that the primary advantage of green hydrogen is that it can replace natural gas for: 1) those industrial customers who require gas for their processes, 2) gas-fired power plants that will continue to be necessary in the future to integrate large levels of renewable generation, and 3) heavy duty trucks that are more difficult to electrify.²⁸ Residential or commercial customers are not the intended market, and SoCalGas makes absolutely no claim that “core” customers will ever use these pipelines.

Essentially, SoCalGas is proposing to build pipeline(s) dedicated to specific large end-users. As noted above, it would be more reasonable for an unregulated affiliate or a third party to construct such a project. However, if the regulated utility pursues this project, the Commission should make clear right now, based on accepted ratemaking practices for dedicated facilities and cost causation, that any recorded costs will be borne only by those customers who might become future users of the hydrogen pipelines. The Commission should thus modify the proposed ALPMA to exclude all customers who will continue to use the current natural gas system rather than any future hydrogen pipeline system from any cost allocation.

²⁷ Application, pp. 23-24.

²⁸ For example, Application, pp. 4, 11-17, 29-30.

III. EFFECT OF THE APPLICATION ON THE PROTESTANT

TURN is a non-profit consumer advocacy organization and has a long history of representing the interests of residential and small commercial customers of California's utility companies before this Commission. TURN's articles of incorporation specifically authorize our representation of the interests of residential customers. The instant application significantly impacts the economic and safety interests of SoCalGas' residential ratepayers, whose interests TURN represents.

IV. CATEGORIZATION AND NEED FOR EVIDENTIARY HEARINGS

SoCalGas proposes that the proceeding be categorized as ratesetting, and that no hearings are necessary.²⁹ The Commission has not issued any resolution with a preliminary categorization.

TURN concurs with SoCalGas that the proceeding should be categorized as ratesetting. TURN suggests that if the Commission intends to include Phase 3 costs in any future memorandum account, hearings would be necessary to determine the nature of eligible costs that could be recorded in the memorandum account.

V. PROPOSED SCHEDULE

Applicants propose no further process, and that the Commission issue a decision regarding the memorandum request based solely on the application, which included no testimonies, and the protests.³⁰

²⁹ Application, p. 47.

³⁰ Application, p. 47.

TURN agrees that the Commission could dismiss the application with prejudice based the deficiencies in meeting required standards for recording costs to a memorandum account.

If the Commission does not choose to dismiss the application immediately, TURN recommends that a process be established to provide for briefs on legal issues, and comments on further restrictions or modifications to the proposed ALPMA to address the issues raised in this protest.

TURN intends to coordinate with other intervenors and stakeholders prior to any prehearing conference to propose more specific scheduling at the PHC.

VI. CONCLUSION

TURN recommends that the Commission dismiss this application with prejudice, and direct SoCalGas to pursue this project via an unregulated affiliate entity, if it so chooses.

Alternatively, the Commission could direct SoCalGas to submit a complete application, either in conjunction with its rate case application or as a stand-alone application, once it has conducted sufficient preliminary work to develop a cost forecast and to better understand any potential supply source of green hydrogen.

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March 21, 2022

Respectfully submitted,

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